

Exhibit A

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2 -----X

3 ZONING BOARD OF APPEALS
EVIDENTIARY HEARING

4 -----X

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7 June 23, 2022

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10 ** TRANSCRIPTION OF VIDEOTAPED PROCEEDINGS **

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BEFORE:

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Zoning Board Members:

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David Griffin

Jim Steinberg

Carl Amaditz, Chair

Hilda Lehr

Ed Pajak

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Transcribed by

Michelle Lemberger

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2 APPARENCES:

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4 Javid Afzali, Esq.
Harris Beach
ZBA Special Counsel

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7 Meaghan Feenan, Esq.
Harris Beach
8 Building Department Special Counsel

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11 Steven Barshov, Esq.
Sive Paget & Riesel
Counsel for the Appellant

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14 ALSO PRESENT:

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16 Dan Hogue - Town supervisor.
Steve Budofsky - Deputy Town Supervisor,
Town board member
Katherine Barnhart - Planning Board member

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Joanne Nagoda - Town Clerk

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1 Proceedings
2 understand, had left this parking
3 lot. That included some members of
4 the audience that are here.

5 We were tailed for probably at
6 least 10 to 15 miles. They pulled
7 into a place, I pulled in for gas,
8 they stopped, I'm not sure if it was
9 an effort to intimidate me or my
10 colleagues, I'm not sure what it was,
11 but it should be on the record that
12 that's what happened.

13 MR. AMADITZ: Would there be
14 anyone that you would recognize from
15 this room?

16 MR. AFZALI: The vehicles were
17 here yesterday during the meeting and
18 they're here today, yes.

19 MR. AMADITZ: So let's move on
20 to your objection, sir.

21 MR. BARSHOV: So respond.

22 MR. AMADITZ: Your objection is
23 denied.

24 MR. BARSHOV: I understand.

25 But I would like to respond for the

1 Cross-Gabbard

2 Q. So what are the others, Mr. Gabbard?

3 MS. FEENAN: I renew my
4 objection which I believe was
5 sustained.

6 MR. AMADITZ: You're asking for
7 a legal conclusion, as a response to
8 her objection.

9 MR. BARSHOV: I just want to
10 get the witness' understanding. He
11 said it was some. I want to know
12 what he meant. He didn't answer.

13 MR. AMADITZ: Do you have an
14 answer, any further answer to that,
15 Mr. Gabbard?

16 THE WITNESS: No, some
17 developments have moderately, low
18 end, you know, mixed housing.

19 BY MR. BARSHOV:

20 Q. You're referring to government
21 programs, right?

22 A. No, they could be privately funded.

23 Q. Okay. So there can be developments
24 that are -- have mixtures of housing, right?

25 A. In certain areas it is actually

1 Cross-Gabbard

2 project approvals that prevents a rabbi from
3 wanting to do right by his community, is
4 there, Mr. Gabbard?

5 A. There's not.

6 Q. Now, I want to be sure that we're on
7 the same page given what occurred yesterday.

8 There have been no applications
9 filed with the Town, have there, Mr. Gabbard,
10 to amend, change, modify, or in any way tweak
11 any of the project amendments that are to be
12 built on this project, have there?

13 MS. FEENAN: Objection. Asked
14 and answered yesterday.

15 MR. BARSHOV: It was asked and
16 objected to yesterday.

17 MS. FEENAN: I would say that
18 ruling stands.

19 MR. BARSHOV: I would like an
20 answer to that question.

21 MR. AMADITZ: I'm going to
22 sustain the objection. It was asked
23 and answered yesterday.

24 MR. BARSHOV: Okay. And the
25 board is clear on Mr. Gabbard's

1 Cross-Gabbard

2 words.

3 MS. FEENAN: I am reading the

4 words.

5 MR. BARSHOV: Okay. So then

6 you --

7 MS. FEENAN: My objection

8 stands.

9 MR. BARSHOV: Okay,

10 Mr. Chairman?

11 MS. FEENAN: The affidavit is

12 clear. He's seeking assistance with

13 the review of the application. I

14 don't think we need to go any further

15 into those conversations had with

16 counsel.

17 MR. AMADITZ: I would agree

18 with that. I'm going to sustain that

19 objection.

20 MR. BARSHOV: I'm still batting

21 one. You know that?

22 MR. AMADITZ: You are batting

23 zero.

24 MR. BARSHOV: No, no. You know

25 the only time, actually, Mr. Chairman

1 Cross-Gabbard

2 A. The letter you're speaking to?

3 Q. The letter that was generated on

4 October 7th that you referred to in paragraph

5 25.

6 A. I sought assistance from counsel at
7 that time. He helped me with some of the
8 language, I believe, you know. I did not
9 take everything that was suggested, and I
10 wrote my letter, basically.

11 Q. So there were drafts that were
12 exchanged?

13 A. I don't recall. But I believe there
14 was -- there was some text that was shared
15 with me about how to, you know, correct it.

16 MS. FEENAN: Objection to any
17 other further testimony on the
18 conversation and the text. It's
19 privileged.

20 MR. AMADITZ: Other than the
21 text.

22 MS. FEENAN: Right, other than
23 the text itself.

24 MR. AMADITZ: Do you recall any
25 details of the text?

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2 C E R T I F I C A T E

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4 I, MICHELLE LEMBERGER, a shorthand
5 reporter and Notary Public within and for
6 the State of New York, do hereby certify:

7 That the witness(es) whose testimony
8 is hereinbefore set forth was duly sworn,
9 and the foregoing transcript is a true
10 record of the testimony given by such
11 witness(es).

12 I further certify that I am not
13 related to any of the parties to this
14 action by blood or marriage, and that I am
15 in no way interested in the outcome.
16 of this matter.

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MICHELLE LEMBERGER